argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.

FILED

MAY 05 2004

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES ROWDEN,

Plaintiff, No. CIV S-02-2593 GEB KJM PS

vs.

UNITED STATES OF AMERICA, et al., ORDER AND FINDINGS AND RECOMMENDATIONS

Defendants,

Defendants' motions to dismiss came on regularly for hearing April 14, 2004. Plaintiff appeared in propria persona. Andres Garza appeared for defendant State of California and the defendant judges. Yoshinori Himel appeared for defendant United States of America. Upon review of the motion of the documents in support and opposition, and good cause appearing therefore, THE COURT MAKES THE FOLLOWING FINDINGS:

In this action, plaintiff complains about events that occurred during certain state court actions, including a foreclosure action in which plaintiff was a defendants. Named in the instant action are

EXHIBIT B

several state court judges. The Supreme Court has held that judges acting within the course and scope of their judicial duties are absolutely immune from liability for damages. Cleavinger v. Saxner, 474 U.S. 193 (1985); see also Ashelman v. Pope, 793 F.2d 1072, 1075 (9th Cir. 1986). There can be no dispute that the actions challenged here, namely the granting of a motion for summary judgment, denying a motion to reconsider, consideration of an appeal, and ruling against plaintiff on various motions, were by defendants acting within the scope of their judicial duties. Plaintiff presents no cognizable claim that can overcome the bar of judicial immunity. The claims against the defendant state court judges therefore should be dismissed without leave to amend.

Defendant State of California contends it is immune from suit under the Eleventh Amendment. It is well established that a state such as California cannot be subject to suit under 42 U.S.C. § 1983. Will v Michigan Dep't of State Police, 491 U.S. 58, 66 (1989). Plaintiff suggests no other theory of liability that would allow a suit against the state to proceed. The claims against this defendant should also be dismissed with prejudice.

Defendant United States of America is the defendant first named in the action. However, the body of the complaint contains

no allegations of any wrongdoing by this defendant. To the extent plaintiff seeks a declaratory judgment abolishing judicial immunity, there is simply no controversy between plaintiff and defendant United States of America. As such, this court has no subject matter jurisdiction over the claim against defendant United States of America. See 28 U.S.C. § 2201.

The allegations as to the remaining defendants are, at best, legal malpractice claims. There being only state claims remaining, the court should decline to exercise supplemental jurisdiction under 28 U.S.C. § 1367(c)(3).

Accordingly, IT IS HEREBY ORDERED that:

1. The hearing on defendants' motion to dismiss, calendared for May 12, 2004, is vacated;

2. The status conference, set for May 19, 2004, is vacated; and

IT IS HEREBY RECOMMENDED that:

1. The motions to dismiss of defendant United States of America and defendants State of California, Francis, Darlington, Butz, Sims, Callahan, Puglia, and Gray be granted;

2. The court decline supplemental jurisdiction over the remaining claims under 28 U.S.C. § 1367(c)(3); and

3. This action be dismissed.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within ten days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served and filed within ten days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: May 3, 2004

UNITED STATES MAGISTRATE JUDGE

FILED

JUN – 8 2004

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES ROWDEN,

Plaintiff, No. CIV S-03-2593 GEB KJM PS

vs.

UNITED STATES OF AMERICA, et al., ORDER

Defendants,

Plaintiff, proceeding pro se, filed the above-entitled action. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 72-302(c)(21).

On May 5, 2004, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice to the parties that any objections to the findings and recommendations were to be filed within ten days. No objections to the findings and recommendations have been filed. (WERE ATTACHED, HAVE POSTAL RECEIPT)

The court has reviewed the file and finds the findings and

EXHIBIT C

recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed May 5, 2004, are adopted in full;

2. The motions to dismiss of defendant United States of America and defendants State of California, Francis, Darlington, Butz, Sims, Callahan, Puglia, and Gray are granted;

3. The Court declines supplemental jurisdiction over the remaining claims under 28 U.S.C § 1367(c)(3); and (NOT LEGAL, WALKER V. TEXAS (2002 ED. TEX.) – 217 F SUPP.2d 776)

4. This action is dismissed.

DATED: 6/7/04

UNITED STATES DISTRICT JUDGE

BILL LOCKYER, Attorney General
of the State of California
DARRYL L DOKE, Lead Supervising
Deputy Attorney General
THOMAS D McCRACKIN, Supervising
Deputy Attorney General
KIMBERLY ZIERMAN
Deputy Attorney General, State Bar No. 177362
1300 I Street, Suite 125
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Sacramento, California 94244-2550
Telephone: (916) 322-3870
Facsimile: (916) 322-8288

**Attorneys for Defendants
State of California; The Honorable Frank Francis;
The Honorable John Darlington; The Honorable M. Kathleen
Butz; The Honorable Richard Sims;
The Honorable Robert Puglia; The Honorable Connie
Callahan**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

JAMES G. ROWDEN,	)	Case No. 02AS02858
	)	
Plaintiff,	)	**JUDGEMENT OF DISMISSAL**
	)	
	)	
v.	)	
	)	
THE STATE OF CALIFORNIA	)	
et al.,	)	Dept: 54
	)	Judge: JOE S. GRAY
Defendants.	)	
	)	
	)	

EXHIBIT D

The Demurrer of Defendants State of California; The Honorable Frank Francis; The Honorable John Darlington; The Honorable M. Kathleen Butz; The Honorable Richard Sims; The Honorable Robert Puglia and The Honorable Connie Callahan came on for hearing on July 25, 2002, the Honorable Joe S. Gray, Judge of the Superior Court, presiding. Plaintiff appeared *in propia persona*. Defendants were represented by Deputy Attorney General Kimberly Zierman.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

The Demurrer is granted without leave to amend for failure to state a cause of action. The complaint is barred by the doctrine of judicial immunity. Judgment of dismissal with prejudice is granted to Defendants State of California; The Honorable Frank Francis; The Honorable John Darlington; The Honorable M. Kathleen Butz; The Honorable Richard Sims; The Honorable Robert Puglia and The Honorable Connie Callahan. The Complaint is dismissed with prejudice, and the Summons is discharged. Plaintiff shall take nothing by reason of his complaint.

DEFENDANT: AL SEASTRAND, ATTORNEY, DID NOT BOTHER TO ANSWER.

Dated:

JOE S GRAY
Judge of the Superior Court

P.O. Box 272
Nipomo, CA 93444-0272

August 12, 2002

STATE OF CALIFORNIA
Office of Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

Subject: Rowden v State of California, et al
Sacramento Superior Court – Case # 02AS02858

To Whom It May Concern,

I refuse to sign your Judgment of Dismissal as it does not conform to the law, nor is it just, fair or right and is a perversion of the law and constitution of the State of California and the United States of America.

"FAILURE TO STATE A CAUSE OF ACTION". Cause of action: The fact or facts which give a person a right to judicial redress. The legal effect of an occurrence in terms of redress to a party to the occurrence. Failure to perform legal obligation. To do or refrain from performance of some act. Unlawful violation or invasion of rights. The right which a party has to institute a judicial proceeding: Civil sec 52.1 Interference With Exercise of Civil Rights – Remedies, sec (a) rights secured by the Constitution or laws of the United States or rights secured by the constitutional laws of this state. The Attorney General may bring civil action. (b) Any individual whose

exercise or enjoyment of rights secured by the Constitution of the United States or this state (California) has been interfered with. (a) May institute a prosecution in his or her own name on his or her own behalf a civil action for damages. The complaint dismisses with prejudice stated TWELVE (12) times the violation of my constitutional rights... "NO CAUSE OF ACTION"!

You and Judge Joe E. Gray have violated my constitutional rights along with the six (6) other judges and attorneys, and have violated your oath of office to uphold the Constitution of California and the United States of America.

DOCTRIN OF JUDICIAL IMMUNITY: Gov. Code sec 815.2 Act of Employee Immunity, (a) A public entity IS liable for injury, within the scope of his employment, and gives rise to a CAUSE OF ACTION against that employee. Sec. 815.3 Government Tort Liability (a) elected official and public entity are named. Sec 820.2 Exercise of Discretion. Except as otherwise provided by statute public employee is not liable for his act of omission. If there is a law (Constitution and others) there can be no omission (discretion).

I think a CAUSE OF ACTION was established, and DOCTRINE OF "JUDICIAL IMMUNITY" has been proven false (wrong) in this case. If not you might as well eliminate sec 7 Due Process and sec 16 Right to Trial by Jury, if they are not a Cause of Action and the people who use, enforce and interpret the laws (attorneys, judges

and prosecutors) are "IMMUNE" from not enforcing them, ludicrous. Who else besides attorneys, judges and prosecutors can violate a persons constitutional rights of Due Process and Trial by Jury?

I plan to go forward in the U.S. courts and hopefully find justice.

Hopefully,

JAMES GRAY ROWDEN
Plaintiff In Pro Per
P.O. Box 272
Nipomo, CA 93444-0272

Tel. 530-277-4431

Cc:

Attorney General Bill Lockyer
Judge Joe E. Gray
Sacramento Bee, Court Editor
Numerous state officials and representatives

FOOD FOR THOUGHT:

The Constitution is the supreme law of our land and it governs our actions as citizens. Only the laws of God which govern our conscience, are superior to it.
Pres. Gerald Ford, Nixon Pardon

The passion for truth is silenced by answers which have the weight of undisputed authority.
Paul Tillich

The only stable state is the one in which all men are equal before the law.

Any fool can know. The point is to understand.
Einstein

The law can only tell you the way. It is for you yourself to make the effort.

PROOF OF SERVICE

I, Barbara Rowden, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my address is 2846 Lorencita Dr., Santa Maria, CA 93455.

On 8-12-05 I served the within documents:

PETITION FOR A WRIT OF CERTIORAI, UNITED STATES SUPREME COURT

by placing the documents listed above in a sealed envelope with postage on them fully prepaid in the United States mail at Nipomo, California, addressed as set forth below.

Jeffrey Mason Phillips
Attorney General's Office for the State of California
PO Box 944255
1300 I Street
Suite 125
Sacramento, CA 94244-2550

Yoshinori H T Himel
United States Attorney
501 I Street
Suite 10-100
Sacramento, CA 95814

Betsy S. Kimball
Boyd and Kimball
601 University Avenue
Suite 264
Sacramento, CA 95825

Michael Erik Vinding
The Diepenbrock Law Firm
400 Capitol Mall
Suite 1800
Sacramento, CA 95814

Solicitor General of the United States
Room 5614
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8-11-05, at Santa Maria, California

Barbara Rowden

Barbara Rowden